

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

ANGEL J. NEGRON, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

ASCENSION HEALTH,

Defendant.

Case No. 4:24-cv-0669

JOINT MOTION TO CONSOLIDATE ACTIONS

Plaintiffs, Angel Negron, Michael Shuta, Christina McClellan, L.S., Daniel Brown, Iman Ayuk, Kerry Lovell, Richard Meade, George Gounaris, Jill Radley, Leah Willis, Stephen Gregg, Sue Croft, Courtney Brown, Linda Sue Dunn, Vikesha Exford, Tiffany Farrand, Cheryl Hayes, Donald Pitchers, and Michele Rutherford, Mark Juracek, Carson Seney, Brian Seney, Kara Seney, and Roxana Hoskins (“Plaintiffs”), and Defendant, Ascension Health (“Ascension”) (Plaintiffs and Ascension together, “Parties”), jointly move under Federal Rule of Civil Procedure 42(a) to consolidate, for all purposes, the thirteen filed actions (collectively, “Actions”)¹ currently pending

¹ *Negron v. Ascension Health*, 4:24-cv-00669 (filed May 14, 2024); *Shuta v. Ascension Health*, 4:24-cv-00683 (filed May 16, 2024); *McClellan v. Ascension Health*, 4:24-cv-00686 (filed May 16, 2024); *L.S. v. Ascension Health*, 4:24-cv-00693 (filed May 17, 2024); *Brown et al. v. Ascension Health*, 4:24-cv-00724 (filed May 23, 2024); *Gounaris v. Ascension Health*, 4:24-cv-00727 (filed May 23, 2024); *Radley v. Ascension Health*, 4:24-cv-00748 (filed May 29, 2024); *Willis v.*

in the Eastern district of Missouri, into this action (“*Negron*”), which is the first-filed among all related cases (all thirteen cases filed in this District Court collectively, “Related Actions”).

As discussed below, consolidation is appropriate because each of these Actions: (i) is against the same single defendant, Ascension; (ii) is based on the same cybersecurity incident experienced by Ascension on or around May 8, 2024 (“Cybersecurity Incident”); (iii) assert the same and/or overlapping allegations and legal claims; and (iv) seek to represent the same and/or overlapping putative nationwide classes and subclasses of persons.

All Parties consent to the consolidation of the Actions into *Negron* for all purposes, none of which have moved past the filing of a complaint. Given the common factual background and common claims asserted by Plaintiffs on behalf of nationwide putative classes, consolidation will streamline the litigation and save both party and judicial resources.²

LEGAL STANDARD

Fed. R. Civ. P. 42(a) states that:

[i]f actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.

Ascension Health, 4:24-cv-00821 (filed June 13, 2024); *Gregg v. Ascension Health*, 4:24-cv-00837 (filed June 17, 2024); *Croft v. Ascension Health*, 4:24-cv-00870 (filed June 21, 2024); *Juracek v. Ascension Health*, 4:24-cv-00905 (filed July 1, 2024); *Seney et al. v. Ascension Health*, 4:24-cv-00933 (filed July 9, 2024); and *Hoskins v. Ascension Health*, 4:24-cv-00964 (filed July 15, 2024).

² In addition to the Related Actions subject to this Motion, there are three cases filed outside of this District that are based on the same Cybersecurity Incident and whose allegations and legal claims overlap with those of the Related Actions. These cases will either be dismissed and added to the consolidated complaint in this action or they will be transferred to this Court.

“Whether to consolidate actions under Rule 42(a) is vested in the court’s discretion.” *Lowe v. Pecorella*, Case No. 4:23-cv-798, 2023 WL 4743246, at *1 (E.D. Mo. July 25, 2023); *Barnes v. Winson*, Case No. 1:22-cv-00128, 2022 WL 17338292, at *2 (E.D. Mo. Nov. 30, 2022) (“The determination as to whether cases should be consolidated is left to the sound discretion of the Court.”). Consolidation of cases is appropriate “when those actions involve a common question of law or fact … [and] consolidation is permitted as a matter of convenience and economy in administration.” *Enterprise Bank v. Saettle*, 28 F.3d 233, 235 (8th Cir. 1994) (cleaned up).

In deciding a motion to consolidate, a court will consider the following factors: “similarity of questions of law and fact, the goals of judicial efficiency and avoidance of inconsistent verdicts and whether consolidation will delay the proceedings. *White Knight Diner, LLC v. Arbitration Forums, Inc.*, Case No. 4:17-cv-02406, 2017 WL 4682824, at *1 (E.D. Mo. Oct. 18, 2017); *Silverberg v. H&R Block, Inc.*, Case No. 4:06-cv-00519, 2006 WL 1314005, at *2 (E.D. Mo. May 12, 2006) (finding that the actions were substantially similar “because they name the same Defendants, contain nearly identical factual allegations and legal claims, and are brought on behalf of the same class”).

ARGUMENT

This Court should grant the Parties’ motion because all factors favor consolidation of the Actions into the *Negron* action, and consolidating the Actions will lead to greater efficiency in case management and consistent rulings regarding overlapping legal claims.

The cases here are substantially similar. They all name the same defendant, Ascension Health, contain nearly identical factual allegations and legal claims, and seek to represent the same class or

classes.³ See *Silverberg*, 2006 WL 1314005, at 2 (ordering consolidation where the actions named the same Defendants, contained nearly identical factual allegations, and involved the same class); *See also Crepps v. Conopco, Inc.*, Case No. 4:19-cv-02554, 2019 WL 6716743, at *2 (E.D. Mo. Dec. 10, 2019) (finding that consolidation for pre-trial proceedings was appropriate where allegations and defendant were the same, even though the alleged product differed between the cases). See also *Johnson v. Cornerstone National Ins. Co.*; No.22-CV-04135-WJE (W.D. Mo. March 6, 2023).

There are currently thirteen cases on file in this jurisdiction. Trying each case separately could lead to inconsistent adjudications based on common factual or legal questions and would be more burdensome to the courts and the Parties. All cases are predicated upon the Cybersecurity Incident, alleging that Plaintiffs' personal and sensitive information was accessed by third parties and that Plaintiffs were harmed as a result. In addition, across these cases, there is substantial overlap in the causes of action brought by Plaintiffs. By consolidating these cases, the risk of inconsistent verdicts will be avoided. See *Silverberg*, 2006 WL 1314005, at 2.

All cases are currently at the initial pleading stage; Ascension has not yet filed an answer or other responsive pleading in any of the cases. Consolidating the cases will not prejudice or delay any proceeding or party but will in fact streamline the proceedings by eliminating duplicative work and expense, conserving both judicial and party resources. See *White Knight Diner*, 2017 WL 4682824, at *1; *Crepps*, 2019 WL 6716743, at *2 ("Significantly, no party will be unfairly inconvenienced or prejudiced as all cases are at the same stage in litigation and all plaintiffs are represented by the same counsel who consents to pre-trial coordination.") Because all factors weigh in favor of

³ Some of the cases seek to certify state subclasses, however, these are subclasses of the same nationwide class. See e.g., Croft Compl. ¶ 224; Willis Compl. ¶ 97.

consolidation, the Actions identified above, and any cases subsequently filed in this district, should be consolidated into *Negron v. Ascension Health*, 4:24-cv-00669 case.

To further efficiencies, Plaintiffs intend to file either (i) an agreed upon motion to appoint interim lead counsel pursuant to Fed. R. Civ. P. 23(g), or (ii) competing motions within five days of the entry of an order consolidating the cases. The leadership slate that is appointed will then negotiate with the Defendant a schedule to file a single consolidated complaint to supersede the earlier-filed complaints in each of the Related Actions and a schedule for the filing of a responsive pleading.⁴

CONCLUSION

For the foregoing reasons, the Actions should be consolidated for all purposes into *Negron v. Ascension Health*, 4:24-cv-00669, the first-filed action in this District, and the Court should order that any motions under Fed. R. Civ. P. 23(g) should be filed within five days of the entry of an order consolidating the actions.

Dated: July 22, 2024

/s/ J. Gerard Stranch IV

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⁴ See 8 Moore's Fed. Prac. Civil §42.13 (2021) ("As a management tool for complex litigation, the consolidated complaint has been found to have significant advantages [because] it eliminates the need for multiple answers to multiple complaints and streamlines discovery, allowing it to be directed to the consolidated complaint, rather than to each individual plaintiff's complaint[, and] simplifies the court's work in ruling on motions and drafting pretrial orders."); 9A Fed. Prac. & Proc. Civ. §3282 (3d ed. 2021) ("Courts have interpreted Rule 42(a) as authorizing the filing of a unified or master complaint, used often in complex litigation, in cases consolidated both for pretrial discovery and for trial.").

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CERTIFICATE OF CONFERENCE

Pursuant to LR 3.04(A), I certify that I conferred with Plaintiff's counsel in each of Actions and counsel for the Defendant, and each agreed to the relief requested in this agreed motion.

Dated: July 18, 2024

/s/ J. Gerard Stranch, IV

J. Gerard Stranch, IV

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2024, a copy of the foregoing was served by electronic means via the Court's CM/ECF System on all counsel registered to receive electronic notices.

/s/ J. Gerard Stranch, IV

J. Gerard Stranch, IV